

**This Page is Inserted by IFW Indexing and Scanning  
Operations and is not part of the Official Record**

**BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** \_\_\_\_\_

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.**



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,242	04/24/2001	Jeffrey Richard Conrad	10006621-017	3491

7590 08/20/2004  
HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER

PHAN, TAM T

ART UNIT	PAPER NUMBER
2144	

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/840,242

Applicant(s)

CONRAD ET AL.

Examiner

Tam (Jenny) Phan

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 04/24/2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This application has been examined. Claims 1-16 are presented for examination.

***Priority***

2. No priority claims have been made.
3. The effective filing date for the subject matter defined in the pending claims in this application is 04/24/2001.

***Information Disclosure Statement***

4. An initialed and dated copy of Applicant's IDS form 1449, Received on 04/24/2001, is attached to the instant Office action.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 1, 5-6, 8-9, 13-14, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Pithawala et al. (U.S. Patent Number 6,747,957), hereinafter referred to as Pithawala.
7. Regarding claim 1, Pithawala disclosed a method of managing a network comprising: transmitting a signal from a network manager to each of plural nodes to determine the availability of each node; determining a response time of each node using the signal; and relaying the response time of each node to a database of the network manager (Title, Abstract, Figure 7, column 8 lines 29-38, column 11 lines 4-13, lines 27-42).

Art Unit: 2144

8. Regarding claim 5, Pithawala disclosed a method wherein the signal is an Internet Control Message Protocol (ICMP) echo request and an ICMP echo reply (Abstract, column 3 lines 3-15, column 6 line 57 - column 7 line 7).
9. Regarding claim 6, Pithawala disclosed a method wherein the plural nodes comprise substantially all nodes of the network (column 1 line 61-column 2 line 3).
10. Regarding claim 8, Pithawala disclosed a method wherein the network manager is a Network Node Manager (column 3 lines 39-53).
11. Regarding claims 9, 13-14, and 16, the computer-based system for managing a network corresponds directly to the method of claims 1, 5-6, and 8, and thus these claims are rejected using the same rationale.
12. Since all the limitations of the claimed invention were disclosed by Pithawala, claims 1, 5-6, 8-9, 13-14, and 16 are rejected.
13. Claims 1, 5-6, 8-9, 13-14, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Stevenson et al. (U.S. Patent Number 6,704,284), hereinafter referred to as Stevenson.
14. Regarding claim 1, Stevenson disclosed a method of managing a network comprising: transmitting a signal from a network manager to each of plural nodes to determine the availability of each node; determining a response time of each node using the signal; and relaying the response time of each node to a database of the network manager (Title, column 4 lines 48-55, column 5 lines 1-27, column 5 line 63-column 6 line 7).
15. Regarding claim 5, Stevenson disclosed a method wherein the signal is an Internet Control Message Protocol (ICMP) echo request and an ICMP echo reply (column 4 lines 48-55).

16. Regarding claim 6, Stevenson disclosed a method wherein the plural nodes comprise substantially all nodes of the network (column 3 line 63-column 4 line 21).

17. Regarding claim 8, Stevenson disclosed a method wherein the network manager is a Network Node Manager (column 1 lines 33-42, column 4 lines 46-55).

18. Regarding claims 9, 13-14, and 16, the computer-based system for managing a network corresponds directly to the method of claims 1, 5-6, and 8, and thus these claims are rejected using the same rationale.

19. Since all the limitations of the claimed invention were disclosed by Stevenson, claims 1, 5-6, 8-9, 13-14, and 16 are rejected.

***Claim Rejections - 35 USC § 103***

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 2-4 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pithawala et al. (U.S. Patent Number 6,747,957), hereinafter referred to as Pithawala, in view of Forman et al. (U.S. Patent Number 6,178,449), hereinafter referred to as Forman.

22. Regarding claim 2, Pithawala disclosed a method of managing a network comprising: transmitting a signal from a network manager to each of plural nodes to determine the availability of each node; determining a response time of each node using the signal; and relaying the response time of each node to a database of the network manager (Title, Abstract, Figure 7, column lines 4-13, lines 27-42).

23. Pithawala taught the invention substantially as claimed. However, Pithawala did not expressly teach receiving the response time of each node in a standard format; and reformatting the response time of each node into a flat file format prior to relaying the response time of each node to the database.

24. Pithawala suggested exploration of art and/or provided a reason to modify the method of managing a network with the flat file format feature (column 11 lines 28-43).

25. Forman disclosed receiving the response time of each node in a standard format; and reformatting the response time of each node into a flat file format prior to relaying the response time of each node to the database (Figure 4, column 5 lines 37-52, column 7 line 60-column 8 line 6).

26. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Pithawala with the teachings of Forman to include the flat file format feature historical log files are typically flat files, and data is written to and read from these files by programs on the local system or remote systems using standard file input/output operations and remote file transfer mechanisms (Forman, column 5 lines 37-52).

27. Regarding claim 3, Pithawala and Forman combined disclosed a method wherein the flat file format comprises: a start time of the response time and a sampling interval; an end time of the sampling interval; the response time in milliseconds; and a node identification number (Pithawala, Figure 7, column 6 line 57 - column 7 line 7, column 7 lines 54-62, column 8 lines 9-19, lines 30-38; Forman, Figures 4 & 7, column 5 lines 37-52, column 7 line 60 - column 8 line 6).

Art Unit: 2144

28. Regarding claim 4, Pithawala disclosed a method wherein the node identification number is an IP address (Figure 7, column 9 lines 60-65, column 11 lines 53-67).

29. Regarding claims 10-12, the computer-based system for managing a network corresponds directly to the method of claims 2-4, and thus these claims are rejected using the same rationale.

30. Since all the limitations of the claimed invention were disclosed by the combination of Pithawala and Forman, claims 2-4 and 10-12 are rejected.

31. Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pithawala et al. (U.S. Patent Number 6,747,957), hereinafter referred to as Pithawala, in view of Trofin et al. (U.S. Patent Number 6,178,449), hereinafter referred to as Trofin.

32. Regarding claim 7, Pithawala disclosed a method of managing a network comprising: transmitting a signal from a network manager to each of plural nodes to determine the availability of each node; determining a response time of each node using the signal; and relaying the response time of each node to a database of the network manager (Title, Abstract, Figure 7, column lines 4-13, lines 27-42).

33. Pithawala taught the invention substantially as claimed. However, Pithawala did not expressly teach steps of designating at least one of the plural nodes as one of a high priority node and a low priority node; and transmitting the signal to each high priority node more frequently than the signal is transmitted to each low priority node.

34. Pithawala suggested exploration of art and/or provided a reason to modify the method of managing a network with the priority feature.



35. Trofin disclosed a method comprising designating at least one of the plural nodes as one of a high priority node and a low priority node; and transmitting the signal to each high priority node more frequently than the signal is transmitted to each low priority node (column 3 lines 54-67, column 4 lines 14-21, lines 25-37, column 8 lines 36-44).

36. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Pithawala with the teachings of Trofin to include the priority feature in order to detect variations in the functionality of high priority nodes quickly since high priority nodes may be polled more often (Trofin, column 8 lines 36-44).

37. Regarding claim 15, the computer-based system for managing a network corresponds directly to the method of claim 7, and thus is rejected using the same rationale.

38. Since all the limitations of the claimed invention were disclosed by the combination of Pithawala and Trofin, claims 7 and 15 are rejected.

### ***Conclusion***

39. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Anderson et al. (U.S. Patent Number 6,360,211) disclosed a method for processing information. When the information is received at the EDI in the ANSI-format, EDI translator converts the ANSI-format data into a flat file, which is communicated to data collector via a communication path. The collector extracts the information from the flat file and stores the information in intermediary database via communication path.

b. Lecheler et al. (U.S. Patent Number 6,425,008) disclosed a system for remote management of private networks. When a customer network interface receives an error

notice, it forwards the error to a network node manager. Network node manager may be a software application, which monitors the managed customer network. Monitoring of managed customer networks includes receiving error notices from managed customer networks, periodically querying managed customer networks to locate unreported error conditions, and interacting with managed customer networks to diagnose and correct errors. Network node manager has a mapping table, which converts the network address into a unique domain name. Network node manager performs the functions of periodically sending out queries to the managed customer networks. If an error condition is returned to network node manager, network node manager forwards the error condition to message creator which then generates an appropriate error message to be sent to level two manager.

40. Refer to the enclosed PTO-892 for details and complete listing of other pertinent prior art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam (Jenny) Phan whose telephone number is (703) 305-4665 or (571) 272-3930 (new telephone number after October 2004). The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on 703-308-3873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William Cuchlinski

SPE

Art Unit 2144

703-308-3873

tp  
August 10, 2004